

## REMARKS

Applicant respectfully requests reconsideration of the instant application in view of the amendments, herein, and the following remarks:

The following claims are *pending*: 15, 17-22, 25-35.

The following claims are *independent*: 15, 34, 35.

The following claims have previously been *cancelled* without prejudice or disclaimer: 1-14, 16, 23, 24.

Please *add new* claims 34, 35 and please *amend* claim 15; although these claims have been amended herein to provide clarification, correct typographical inaccuracies and/or informalities, and/or to better track practical/commercial implementations/practices, Applicant submits that the originally filed claims are patentable and reserves the right to pursue the originally filed claims (as well as any claims dependent therefrom) at a later time and/or in one or more continuation/divisional application(s). Applicant submits that these new claims and/or claim amendments are supported throughout the originally filed specification and that no new matter has been added by way of these amendments.

### Claim Rejections - 35 U.S.C. § 103

The Office Action rejected claims 15, 17-22, and 25 under 35 U.S.C. § 103(a) as being unpatentable over Grigsby, US Patent Publication No. 2002/0016758 (hereinafter “Grigsby”), in further view of Bachmann, US Patent No. 6,315,196 (hereinafter “Bachmann”), and in further view of Paulson, Paulson, Ed. *The Complete Idiot's Guide to Buying & Selling a Business*. Alpha Books. 1999. pp.75-76 (hereinafter “Paulson”). The Office Action also rejected claims 26-33 under 35 U.S.C. § 103(a) as being unpatentable over Grigsby, in further view of Bachmann, in further view of Paulson,

and in further view of Official Notice. Applicant respectfully traverses the rejections and submits that a *prima facie* showing of obviousness has not been made and that the applied references, taken alone or in combination, fail to discuss or render obvious every element of each pending claim.

MPEP § 706.02(j) prescribes that a rejection under 35 U.S.C. § 103 should set forth:

- (i) the relevant teachings of the prior art relied upon,
- (ii) the differences in the claim over the applied references,
- (iii) the proposed modification of the applied references to arrive at the claimed subject matter, and
- (iv) an explanation as to why the claimed invention would have been obvious to one of ordinary skill in the art at the time the invention was made.

Applicant submits that the rejections in the pending Office Action do not establish each of these requirements.

Applicant submits that, by over-generalizing the applied references, the rejections in the Office Action do not establish at least either of the first two elements of a *prima facie* case of obviousness. Amended independent claim 15 recites, *inter alia*,

"A method implemented by a programmed computer system, comprising:

... calculating with the computer system the amount of the bond to be issued such that the requirement that the bond issuer establish revenue rates expected to be sufficient to pay the repayment obligation by the expected payment date comprises establishing a revenue requirement based on:

a first coverage ratio associated with a Debt Service Payable that is lower than:

(i) a second coverage ratio that is used for purposes of a board policy associated with the Debt Service Due, wherein the revenue requirement based on the first coverage ratio as applied to the Debt Service Payable is equal to the revenue requirement based on the second coverage ratio as applied to the Debt Service Due;..."

The pending rejection concedes that "Grigsby does not teach a method comprising establishing a revenue requirement based on a first coverage ratio," (Office Action, p. 3). However, the Examiner

proceeds to allege that "Paulson discloses a method comprising a revenue requirement (EBIT) based on a first coverage ratio," (Office Action, p. 4). Applicant respectfully traverses this argument and submits that the applied references, taken alone or in combination, do not discuss or render obvious at least these elements recited in amended independent claim 15.

In contrast to the Examiner's assertions, Applicant submits that Paulson discusses a definition of a coverage ratio and gives an example of calculating a coverage ratio. Specifically, Paulson discusses that the "*coverage ratio* (CR) is simply the earnings before income tax divided by the total interest paid on debt," (emphasis original) (Paulson, p. 75). Paulson also discusses an example showing that if "a company has an EBIT of \$60,000 and that this same company paid \$20,000 in total interest on its debts... the company has a coverage ratio of \$60,000/\$20,000 = 3," (Paulson, p. 76). However, Applicant submits Paulson's example is different from the claimed "calculating with the computer system the amount of the bond to be issued," much less:

" calculating with the computer system the amount of the bond to be issued such that the requirement that the bond issuer establish revenue rates expected to be sufficient to pay the repayment obligation by the expected payment date comprises establishing a revenue requirement based on:

a first coverage ratio associated with a Debt Service Payable that is lower than:

(i) a second coverage ratio that is used for purposes of a board policy associated with the Debt Service Due, wherein the revenue requirement based on the first coverage ratio as applied to the Debt Service Payable is equal to the revenue requirement based on the second coverage ratio as applied to the Debt Service Due;..."

as recited in amended independent claim 15.

The MPEP prescribes that, "when evaluating the scope of a claim, *every limitation in the claim must be considered*," [§ 2106 II(C), emphasis added] and, "*All words* in a claim must be considered in judging the patentability of that claim against the prior art." [§ 2143.03, emphasis added]. Applicant

submits that the pending rejection has failed to consider "every limitation in the claim" and "[a]ll words in [the] claim" in judging the patentability of the claim against the prior art by mischaracterizing claim elements and/or over-generalizing the applied reference(s). Accordingly, Applicant submits that a *prima facie* showing of obviousness has not been put forth and respectfully requests reconsideration and withdrawal of this basis of rejection.

Applicant submits that claims 17-22 and 25, which depend directly or indirectly from independent claim 15, are also not discussed or rendered obvious by Grigsby's "on-line municipal bond underwriting method," (Grigsby, col. 2, paragraph [0017]) and Bachmann's "method... for automatic deferment of debt on a credit account," (Bachmann, Abstract, lines 1-2), taken alone or in combination with Paulson, for at least similar reasons as those discussed above identifying deficiencies in Paulson with regard to independent claim 15. Accordingly, Applicant respectfully requests reconsideration and withdrawal of this basis of rejection.

Furthermore, Applicant submits that claims 26-33, which depend directly or indirectly from independent claim 15, are also not discussed or rendered obvious by Grigsby, Bachmann, and Official Notice, taken alone or in combination with Paulson, for at least similar reasons as those discussed above identifying deficiencies in the applied references with regard to independent claim 15. Accordingly, Applicant respectfully requests reconsideration and withdrawal of this basis of rejection.

With regard to the dependent claims 26-33, Applicant further notes the Examiner has taken Official Notice that "a state revolving fund program; accruing interest on an unpaid principal portion or unpaid interest of the repayment obligation that is not met continues to accrue until the repayment obligation is met, such as compound interest; increasing the interest rate following an inability to pay a

debt by the expected payment date; and usage of a net revenue stream for debt calculation are old and well known in the art of financial management and debt servicing." (Office Action, p. 7).

Applicant submits that the Examiner has merely asserted that these elements are "old and well known in the art," but fails to support the assertion that the claimed elements would have been well known in relation to the other elements of the claims and within the context of the claims as a whole to one of ordinary skill in the art at the time the invention was made.

To properly support such an assertion, the Examiner must (a) provide evidentiary support (MPEP § 2141 (II)(C) states, "Any obviousness rejection should include, either explicitly or implicitly in view of the prior art applied, an indication of the level of ordinary skill."); (b) establish the appropriate indication of ordinary skill in the art (MPEP § 2141 (II)(C) states, "Any obviousness rejection should include, either explicitly or implicitly in view of the prior art applied, an indication of the level of ordinary skill."); and (c) provide an objective rationale for modifying and/or using the applied references and/or the official notice (MPEP §2141 (III) states, *inter alia*, "The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious."), making all such assessments without impermissible hindsight, picking and choosing, mischaracterizations and over-generalizations. Applicant submits that the Examiner fails to provide explicit evidentiary support as to why the relevant claim elements of the noted claims would be allegedly old and well known to one of ordinary skill in the art at the time the invention was made. Applicant further submits that impermissible hindsight has been applied in asserting obviousness of the various claim elements without citing a prior art or providing an indication of the level of ordinary skill. Applicant also submits that the pending Official Notice has not provided sufficient objective rationale for modifying the applied references.

As such, Applicants respectfully request reconsideration and withdrawal of the pending Office Notices.

## **CONCLUSION**

Consequently, the reference(s) cited by the office action do not result in the claimed invention, there was/is no motivation, basis and/or rationale for such a combination of references (i.e., cited references do not teach, read on, suggest, or result in the claimed invention(s)), and the claimed inventions are not admitted to be prior art. Thus, the Applicant respectfully submits that the supporting remarks and claimed inventions, claims 15, 17-22, 25-35, all: overcome all rejections and/or objections as noted in the office action, are patentable over and discriminated from the cited reference(s), and are in a condition for allowance. Furthermore, Applicant believes that the above remarks, which distinguish the claims over the cited reference(s), pertained only to noted claim element portions. These remarks are believed to be sufficient to overcome the prior art. While many other claim elements and/or bases for rejection were not discussed as they have been rendered moot based on the above amendments and/or remarks, Applicant asserts that all such remaining and not discussed claim elements and/or bases for rejection, all, also are distinguished over the prior art and reserves the opportunity to more particularly traverse, remark and distinguish over any such remaining claim elements and/or bases for rejection at a later time, should it become necessary. Further, any remarks that were made in response to an Office Action objection and/or rejection as to any one claim element, and which may have been re-asserted as applying to another Office Action objection and/or rejection as to any other claim element(s), any such re-assertion of remarks is not meant to imply that there is commonality about the structure, functionality, means, operation, and/or scope of any of the claim elements, and no such commonality is admitted as a consequence of any such re-assertion of remarks.

As such, Applicant does not concede that any claim elements have been anticipated and/or rendered obvious by any of the cited reference(s). Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection(s) and/or objection(s), and allowance of all claims.

**Authorization**

Applicant hereby authorizes and requests that the Commissioner charge any additional fees that may be required for consideration of this and/or any accompanying and/or necessary papers to Deposit Account No. 03-1240, Order No. 17209-537. In the event that an extension of time is required (or which may be required in addition to that requested in a petition for an extension of time), Applicant requests that the Commissioner grant a petition for an extension of time required to make this response timely, and, Applicant hereby authorizes and requests that the Commissioner charge any fee or credit any overpayment for such an extension of time to Deposit Account No. 03-1240, Order No. 17209-537.

In the event that a telephone conference would facilitate examination of the application in any way, Applicant invites the Examiner to contact the undersigned at the number provided.

Respectfully submitted,  
CHADBOURNE & PARKE LLP

Dated: November 16, 2009

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